

ITEL

October 13, 1986

Honorable Noreta R. McGee
Secretary
Interstate Commerce Commission
Washington, DC 20423

Re: First Amendment to the Consolidated, Amended, and Restated Equipment Trust Agreement dated January 1, 1982 - 1978 Series 2 and 1978 Series 3 Trust Equipment

Dear Ms. McGee:

On behalf of Itel Rail Corporation, the above instrument, in four (4) counterparts, is hereby submitted for filing and recording pursuant to 49 USC Section 11303(a), along with a check in the amount of \$30 covering the recordation fees.

filed with 14165
Please record this Amendment under the Equipment Trust Agreement dated January 1, 1982, between Itel Rail Corporation and First Security Bank of Utah, N.A., which was filed with the ICC on September 20, 1983 and given Recordation No. 14165, and cross-index same with the 1978 Series 2 Equipment Trust Agreement which was filed with the ICC on March 21, 1978 under Recordation No. 9291, as well as with the 1978 Series 3 Equipment Trust Agreement, which was filed with the ICC on December 22, 1978 under Recordation No. 9932.

The names and addresses of the parties to the aforementioned Amendment are listed below:

Itel Rail Corporation
55 Francisco Street
San Francisco, California 94133

Itel Corporation
2 North Riverside Plaza
Chicago, Illinois 60606

First Security Bank of Utah, N.A.
79 South Main Street
Salt Lake City, Utah 84111

This instrument amends certain of the terms of the Equipment Trust Agreement covering equipment identified in Recordation Nos. 9291-N and 9932-Z.

Once filed, please return to the bearer the stamped counterparts not required for filing purposes together with the fee receipt and a letter from the ICC acknowledging this filing.

Very truly yours,

Josie Villaflores
Josie Villaflores
Legal Assistant

JV:ps
Enclosure

cc: Howard L. Chabner
Robert C. Kiehle
Sandra Dial

6-289A078

No. OCT 16 1986

Date

Fee \$ 30.00

ICC Washington, D. C.

Itel Rail Corporation

55 Francisco Street
San Francisco, California 94133
(415) 984-4000

RECORDATION NO. 14165 **FILED & RECORDED**

OCT 16 1986 2-40 PM

INTERSTATE COMMERCE COMMISSION

OCT 16 2 31 PM '86
MOTOR CARRIER UNIT

Interstate Commerce Commission
Washington, D.C. 20423

10/16/86

OFFICE OF THE SECRETARY

Josie Villaflores
Legal Assistant
Itel Rail Corp.
55 Francisco ST.
San Francisco, Calif. 94133

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 10/16/86 at 2:40pm and assigned re-recording number(s). 14165-~~100~~ *E. K. F.*

Sincerely yours,

Norata R. McGehee
Secretary

Enclosure(s)

SE-30
(7/79)

RECORDATION NO. 14165-EEE
Filed & Recorded
OCT 16 1986 2-4 0 PM

FIRST AMENDMENT TO THE CONSOLIDATED,
AMENDED, AND RESTATED EQUIPMENT TRUST AGREEMENT

The Consolidated, Amended, and Restated Equipment Trust Agreement, dated as of January 1, 1982 (the "ETC Agreement"), among First Security Bank of Utah, National Association, Itel Corporation, and Itel Rail Corporation, is hereby amended, as hereinafter set forth. All Section, Article and Exhibit designations refer to the appropriate section, article or exhibit, as the case may be, of the ETC Agreement.

Article One is hereby amended by deleting therefrom all definitions of terms not appearing in the ETC Agreement as amended hereby or in other definitions of terms appearing in the ETC Agreement as amended hereby.

Section 2.01 is hereby amended by deleting "the guarantees by Itel and Rail" and inserting in place of such clause "the guarantee by Rail."

Section 2.02 is hereby amended by deleting subsections 2.02(c) and 2.02(f) in their entirety.

Section 2.04 is hereby amended by deleting ", including the guarantees to be endorsed thereon by Itel and Rail, respectively, as provided in Section 6.01 hereinbelow."

Article Three is hereby deleted in its entirety.

Section 4.04 is hereby amended (i) by deleting from the end of paragraph (b)(1) "and there can be no Withheld Amount unless notice is timely given pursuant to the provisions of the first sentence of subsection 6.02(c) hereinbelow" and (ii) by deleting subsection 4.04(f).

Section 4.05 is hereby amended by deleting the last sentence.

Section 4.06 is hereby amended (i) by deleting from clause (a)(1)(A) ", and (C) Rail shall have delivered to the Trustee

all of the documents set forth in subsection 4.06(c) herein-
below)", (ii) by deleting from paragraph (b)(2) "the lesser
of" and inserting in place of such clause "the greater of",
(iii) by deleting from subsection 4.06(b) the last sentence,
(iv) by deleting subsection 4.06(c) in its entirety, (v) by
adding at the end of paragraph (d)(1):

"Nothing contained herein shall be construed to
allow any ETC Holder the right to prevent the sale
by Rail of any units of Trust Equipment, and the
procedures for the substitution for Trust
Equipment sold provided for in this clause (d)(1)
shall be exclusive with respect to any rights of
any ETC Holder in respect of any such sale.";

and (vi) by deleting from subsection 4.06(e) "the lesser of
(i) three hundred (300) units or (ii) 20%" and inserting in
place of such clause "50%".

Section 4.07 is hereby amended by deleting from subsection
4.07(b) "to be substituted therefor which previously shall
have been filed with the Trustee and which shall be filed by
Rail in like manner as this Agreement," and inserting in
place of such clause, "which statement shall be filed quar-
terly with the Trustee with respect to all changes in numbers
of Trust Equipment which have been effected during the previ-
ous three month period."

Section 4.08 is hereby amended by deleting from subsection
4.08(b) ",within thirty (30) days after it shall have been
informed or have knowledge of such Casualty Occurrence" and
"an Officer's Certificate" and insert in place of the latter
clause "notice on a quarterly basis".

Section 4.09 is hereby amended:

(i) by amending subsection 4.09(b) as follows: (1) by dele-
ting all references therein to the defined terms "Lease,"
"Sublease," and "Lease Assignment" and inserting in their
places "lease of Trust Equipment," "sublease of Trust Equip-
ment," and "lease assignment", respectively, (2) by deleting
from clause (3) thereof the parenthetical therein, (3) by
adding in clause (4) thereof, after the words "permit any
Sublease", "or lease assignment", (4) by amending proviso (i)
to read in its entirety "(i) all such leases and subleases

shall be assigned to the Trustee pursuant to a blanket assignment, to be executed no less frequently than annually within thirty days after the end of each fiscal year of Rail," (5) by deleting from proviso (ii) "or any amendment to an existing lease agreement which, by the addition of any units of Trust Equipment thereto, causes such agreement to become a Lease or Sublease," and by deleting "and, within forty five (45) days after the execution of the Lease Assignment, an Officer's Certificate certifying (A) the number of counterparts of such Lease, Sublease, or amendment thereto which were executed and the number of such counterparts in the possession of Rail, and (B) that each counterpart of such Lease, Sublease or amendment thereto in the possession of Rail has been stamped 'Assigned to First Security Bank of Utah, N.A., Trustee under a Lease Assignment dated as of []',", (6) by deleting "10%" in proviso (iv) and inserting in place of such percentage "40%, provided that at least 30% of such units of Trust Equipment shall be located at such time in Canada," (7) by deleting proviso (v) in its entirety, and (8) by deleting from proviso (vi) "and, subject to the provisions of Article Three hereinabove, IteI" and

(ii) by amending subsection 4.09(c) to read in its entirety as follows:

"Rail covenants that it will stamp each counterpart of any lease or sublease of Trust Equipment or any amendment thereto which it may hereafter possess 'Assigned to First Security Bank of Utah, N.A., Trustee, under a lease assignment dated as of '[]', ' promptly upon coming into possession thereof.'"

Section 4.10 is hereby amended by adding the following proviso to the end of the first sentence:

"provided further, however, that as of the effective date of a first amendment to this Agreement, Rail will have no obligation and shall not indemnify the ETC Holders, or any of them, with respect to claims which result or arise solely from events occurring after such effective date."

Section 5.01 is hereby amended:

(i) by amending subsection 5.01(a) as follows: (1) by deleting from the first clause "and, subject to the provisions of Article Three hereof, IteI", (2) by deleting from

paragraph (1) thereof "their respective guarantees" and inserting in place of such clause "its guaranty", (3) by deleting from paragraph (2) "assignment" and "or lease" wherever they appear therein and by deleting the parenthetical "(including, for the purpose of this clause, contracts for the use thereof)", (4) by deleting paragraph (3) in its entirety, and (5) by deleting "(i) the holders of a majority, if such request is made with respect to an Event of Default under paragraph 5.01(a)(2) hereinabove or (ii) the holders of at least 25%, if such request is made with respect to an Event of Default under either of the other paragraphs of this subsection 5.01(a)," and inserting in place of such clause "the holders of a majority";

(ii) by amending subsection 5.01(b) in its entirety to read as follows:

"(b) Rail further agrees that in case it shall fail to perform any other obligations to be performed by it hereunder, and such failure shall continue for a period of 180 days after the Trustee shall have given Rail written notice of such failure (herein also called an "Event of Default"), and in case of an Event of Default under subsection 5.01(a) hereinabove, the Trustee in its discretion may, and upon the written request of the holders of at least two-thirds (2/3) in aggregate unpaid principal amount of the Amended Trust Certificates, the Trustee shall, by notice in writing delivered to Rail, declare to be due and payable by Rail pursuant to paragraph 4.04(a)(3) hereinabove and not theretofore paid and all outstanding ETC Holder Deferrals."; and

(iii) by amending subsection 5.01(c) as follows: (1) by deleting from paragraph (1), "Itel and Rail, or either of them (but in the case of Itel, only in accordance with the provisions of Article Three hereinabove), under their respective guarantees" and inserting in place of such clause "Rail under its guarantee" and (2) by amending paragraph (3) thereof to read in its entirety as follows:

"(3) In case Rail shall fail to make any payment when and as the same shall have become due and payable hereunder, and such default shall have continued for a period of ten (10) days, the Trustee in its own name and as trustee of one or more of the separate express trusts hereunder, shall be entitled and empowered to institute

any actions or proceedings against Rail, at law or in equity for the collection of the payments so due and unpaid, and may prosecute any such action or proceedings to judgment or final decree, and may enforce any such judgment or final decree against Rail and may collect the money adjudged or decreed to be payable out of the Trust Equipment or other property pledged to the Trustee in respect of any Amended ETC Series Trust hereunder."

Section 5.02 and paragraph 5.04(a)(2) are each hereby amended to delete all references to "Itel."

Section 5.05 is hereby amended by deleting all references to "Itel and," "Itel and/or" and "and, subject to the provisions of Article Three hereinabove, Itel" and by deleting "their" and inserting in place of such word "its" wherever the context so requires.

Section 5.09 is hereby amended (i) by deleting all references to "Itel", (ii) by deleting "With respect to a default by Itel resulting from its failure or refusal to comply with the provisions of Section 6.11 or 6.13 hereinbelow or with respect to a default by Rail,"; and (iii) by deleting the last sentence.

Section 5.11 is hereby amended by deleting "but subject to the provisions of Article Three hereinabove,".

Section 6.01 is hereby amended by deleting (i) from subsection 6.01(a), "Itel" and "subject to the provisions of Article Three hereinabove" wherever they appear and, where appropriate, the word "and" and by changing all verbs and pronouns therein from the plural to the singular form where appropriate; and by deleting therefrom the designation "(i)" and the words "or (ii) with respect to Itel's guarantee, pursuant to the terms and conditions of the Stock Pledge Agreement" and (ii) subsection 6.01(b) in its entirety.

Section 6.02 is hereby amended to read in its entirety as follows:

"Rail agrees that, as long as there shall be an Amended Trust Certificate outstanding, Rail shall, subject to there being in effect a confidentiality agreement substantially in the form set forth in Exhibit H-1 hereto, binding upon the Trustee, deliver to the Trustee (in duplicate if requested in writing in advance) as soon as possible and in any event no later than ten (10) Business Days after it shall have knowledge of such event, written notice the Trustee of the occurrence of any default or Event of Default specifying the exact nature of such Default or Event of Default."

Section 6.03 is hereby amended:

(i) by amending the introductory paragraph to read in its entirety as follows:

"Rail agrees that, as long as there shall be an Amended Trust Certificate outstanding, Rail shall, subject to there being in effect a confidentiality agreement substantially in the form set forth in Exhibit H-1 hereto, binding upon the Trustee and any ETC Holder seeking to make an inspection:";

(ii) by deleting, from the first sentence in subsection 6.03(a), ", at the expense of Rail,";

(iii) by amending the proviso in subsection 6.03(a) to read in its entirety as follows:

"provided, however, that the Trustee shall not be obligated to make any such inspection upon the request of any ETC Holder unless the holders of a majority in aggregate unpaid principal amount of the Amended Trust Certificates shall have requested in writing that the Trustee make or cause to be made such inspection and such holders shall have agreed in such request to pay for such inspection; and provided further, however, that Rail shall be obligated to pay for any such inspection made at the request of the Trustee in the exercise of its discretion, but Rail shall not be obligated to pay for any inspection made as a result of such a request by the ETC Holders or any of them."; and

(iv) by deleting subsections 6.03(b) and 6.03(c) in their entirety.

Sections 6.04 and 6.05 are hereby deleted in their entirety.

Section 6.06 is hereby amended (i) by deleting all references to "Lease", "Sublease" and "Lease Assignment" and inserting in their places "lease", "sublease" and "lease assignment", respectively, (ii) by adding, before "which if unpaid might become a lien,", "arising in the ordinary course of business", and (iii) by adding at the end "Rail agrees that, as long as there shall be an Amended Trust Certificate outstanding, it shall not consent to the imposition of any lien, charge, security interest, or other encumbrance upon or against any of the Trust Equipment which is senior to the interest of the Trustee hereunder."

Section 6.07 is hereby amended to read in its entirety as follows:

"Rail agrees that, as long as there shall be an Amended Trust Certificate outstanding, it will, at its expense, promptly and in any event within fifteen (15) Business Days after the execution and delivery of each lease, sublease, annual assignment and annual supplement or amendment thereto, execute, acknowledge, deliver, file, register, and record all instruments and will refile, reregister, and rerecord any and all further instruments required by the laws of the United States of America, any state thereof, or the District of Columbia for the purposes of proper protection of the title of the Trustee and the rights of the ETC Holders and of fully carrying out and effectuating the provisions of this Agreement and the intent hereof."

Sections 6.08, 6.09, 6.10, 6.11, 6.12, and 6.13 are hereby deleted in their entirety.

Section 6.14 is hereby amended by deleting "Itel and Rail jointly and severally agree" and inserting in place of such clause, "Rail agrees".

ARTICLE SEVEN is hereby deleted in its entirety.

Section 9.02 is hereby amended by adding before the word "negligent" in subsection 9.02(b), "grossly".

Section 10.02 is hereby amended by deleting all references to "Iitel".

Section 10.03 is hereby amended by deleting paragraph 10.03(b)(1) in its entirety.

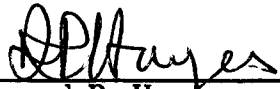
Exhibit A is hereby amended by deleting the Itel Corporation Guaranty.

Exhibits B-1, B-2, C, and E and Schedules 4, 5, 6, 7, and 8 are hereby deleted in their entirety.

ITEL CORPORATION


James Knox
Senior Vice President

ITEL RAIL CORPORATION

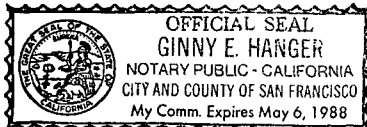

Desmond P. Hayes
President

**FIRST SECURITY BANK OF UTAH, N.A.
AS TRUSTEE**


Authorized Officer

STATE OF CALIFORNIA)
)
COUNTY OF SAN FRANCISCO) ss.

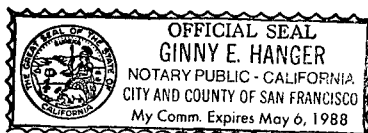
On the 30th day of September, 1986 before me personally came James E. Knox to me known, who, being by me duly sworn, did depose and say that he is the Senior Vice President of Intel Corporation, one of the parties described in and which executed the above instrument; that the execution of the above instrument was duly authorized by the board of directors of Intel Corporation; and that he signed his name thereto pursuant to like authority.



Ginny E. Hanger
Notary Public

STATE OF CALIFORNIA)
)
COUNTY OF SAN FRANCISCO) ss.

On the 30th day of September, 1986 before me personally came Desmond P. Hayes to me known, who, being by me duly sworn, did depose and say that he is the President of Intel Rail Corporation, one of the parties described in and which executed the above instrument; that the execution of the above instrument was duly authorized by the board of directors of Intel Rail Corporation; and that he signed his name thereto pursuant to like authority.



Ginny E. Hanger
Notary Public

STATE OF Utah)
)
COUNTY OF Salt Lake) ss.

On the 3rd day of OCTOBER, 1986 before me personally came Val T. Orton to me known, who, being by me duly sworn, did depose and say that he is the CORPORATE TRUST OFFICER of FIRST SECURITY BANK OF UTAH, N.A., one of the parties described in and which executed the above instrument; that the execution of the above instrument was duly